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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/645,274

08/21/2003

Pierre Michiels

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26530

7590

05/18/2005

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EXAMINER

GREEN, CHRISTY MARIE

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/645,274

**Applicant(s)**

MICHELIS, PIERRE

**Examiner**

Christy M Green

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 11 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is a second office action for serial number 10/645274, entitled Device for equipping an expansion joint, in particular an expansion joint between concrete slabs, filed on August 21, 2003.

#### ***Response to Amendment***

In response to the examiner's office action dated September 27, 2004, the applicant has amended the drawings, claims 1 and 3, and added claims 8-9.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 6 -9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musall, US patent # 2,349,983.

Musall discloses the claimed invention including a device (figure 1) wherein said device is constituted by an assembly of two modules (at 4) derived from sheets, each of the modules comprising: a first series (by 3) of flat elements (at 1), which form projections (4a, 4b), a second series (at 2) of elements in the form of a right angle (figures 2 and 3), which are integral with said projections (4a, 4b), said second series of elements in the form of a right angle (at 2) comprising a first flat part (2), which is in the same plane as said projections (4a, 4b), and a raised second flat part (2b – figure 2), which forms a right angle with said first part (at 2), flat elements (1), which are in the

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same plane as said raised parts (2b) and which form connections in the form of first longitudinal members (attached figure 3) between said raised parts (2b); flat elements (2) which are in the same plane as said projections (4a, 4b) and form connections in the form of second longitudinal members (see attached figure 2), each second longitudinal member being present between the ends of one of said projections (at 3) and of one of said first parts (2), being situated in the same plane as said projections (2 and 4a, 4b); a separating element (interpreted to be 5) between the two modules (4); and, the separation element is foil (interpreted to be metal) and is a sheet (page 2, column 2, line 1).

Musall does not disclose two modules being assembled in such a way that the raised parts of the first and second module face each other along the two sides of a center plane and the longitudinal members of the first and second module equally face each other along the two sides of said same center plane, and that the projections of each module extend on both sides of said center plane; however, it would have been an obvious matter of design choice to provide the raised parts of the first and second module face each other equally, since applicant has not disclosed that the location of these raised parts solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with raised parts as disclosed in the reference cited, and since it has been held that rearranging parts of an invention involves only routine skill in the art.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musall in view of McPhee, US Patent # 5,363,619.

Musall discloses the claimed invention as stated above in claim 1, except for the modules derived from sheets are fixed to one another by temporary fixing means and an anchoring element.

McPhee teaches that it is known in the art to provide modules derived from sheets fixed to one another by temporary fixing means (56) and an anchoring element (24, 60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a temporary fixing means and anchoring elements as taught by McPhee with the device of Musall, in order to equalize the load transfer between the two half-rails and associated portions of the slab (column 4, lines 62-64) and to provide an increase in the mechanical connection between the slab and the locking member (column 3, lines 60-63).

### ***Response to Arguments***

Applicant's arguments filed 2/11/05 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the two modules are separate; the projections remain in place during casting; the dowels are temporary fixing means) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 571.272.6844. The examiner can normally be reached on M,T 10:30-4:00, Th 10:30-8:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571.272.6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cg  
May 9, 2005



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600